SBCivil Writ Petition No.4118/2006

Madanlal
Vs.
Union of India & Ors.

Date of Order :: 4th August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.R.Choudhary, for the petitioner.

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By this petition for writ a challenge is given to the decision of the appropriate government for refusal to make reference of a dispute being raised after a delay of 16 years.

The contention of counsel for the petitioner is that the appropriate government acted arbitrarily while refusing to make a reference on the ground of delay as it is a question that is required to be decided by looking into the merits of the case.

Heard counsel for the petitioner.

The appropriate government while exercising powers under Section 12(5) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act of 1947”) refused to make reference being raised after a lapse of 16 years from the date of occurrence of cause of action. The appropriate government in accordance with the provisions of sub-sec.(5) of Section 12 of the Act of 1947 may deny to make reference of an

industrial dispute by recording and communicating the reasons to the parties concerned. It is also well settled that the reasons to decline for reference should not be irrelevant on extraneous to the dispute but the expediency is an important consideration for appropriate government while reaching at a decision under Section 12(5) of the Act of 1947.

In the instant matter reason for declining reference of a dispute raised after a lapse of 16 years is taken by the appropriate government by considering the expediency factor. It is true that merits of an industrial dispute is always required to be adjudicated by a Labour Court, Industrial Tribunal or Arbitrator, as the case may be, and there is no limitation prescribed under the Act of 1947 for raising an industrial dispute but at the same time it is not open for any party effected to raise dispute at any point of time without a reasonable cause. There must be some extra ordinary reasons for raising a dispute at a belated stage. Merely on the ground that no limitation is prescribed under the Act of 1947, the stale matters cannot be permitted to get a new lease of life. The appropriate government is well within its jurisdiction to deny the reference, if the dispute is raised by inordinate delay, without any reason.

In the instant matter the petitioner has not given any reason for raising industrial dispute after

a lapse of 16 years. The appropriate government after considering the application raising industrial dispute and the failure report submitted by the conciliation officer, reached at the conclusion that the claim is not required to be referred being stale. I do not find any illegality in it as the petitioner has not given any reason sufficient for causing such delay. On asking, even before this Court, counsel for the petitioner failed to give any reason sufficient to condone delay in raising industrial dispute.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.